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In re Application of GIRAUD et al
U.S. Application No.: 09/869,768
Int. Application No.: PCT/FR99/03317
Int. Filing Date: 30 December 1999
Priority Date: 31 December 1998
Attorney Docket No.: CR1PCT/lw
For: DISPENSER OF OBJECTS

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DECISION

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181" filed 09 August 2002.

BACKGROUND

On 30 December 1999, applicant filed international application PCT/FR99/03317, which claimed priority of an earlier France application filed 31 December 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 13 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 July 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 July 2001 (30 June 2001 was a Saturday).

On 29 June 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 September 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed. A copy of Form PCT/DO/EO/905 as mailed is attached to this decision.

On 06 February 2002, the DO/EO/US mailed a duplicate Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905).

On 24 May 2002, applicant filed a response to the Notification of Missing Requirements mailed 06 February 2002.

On 26 July 2002, the DO/EO/US mailed a Notice of Abandonment, which stated that the present application is abandoned for failure to timely respond to the "Notice to File Missing Parts (Notice) mailed on 02/07/2002".

On 09 August 2002, applicant filed the present petition under 37 CFR 1.181. The petition states that a proper response to the 06 February 2002 Notification of Missing Requirements was filed on 24 May 2002.

DISCUSSION

The Notice of Abandonment mailed 26 July 2002 was erroneous. The application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements mailed 07 September 2001. The response filed 24 May 2002 was untimely.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED.

The Notice of Abandonment mailed 26 July 2002 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Abandonment (Form PCT/DO/EO/909), which should indicate that the present application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements mailed 07 September 2001.



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